

DEREK ANTHONY COSTANTINO, ) 3:10-cv-00078-HDM-WGC  
)  
Plaintiff, )  
)  
vs. ) ORDER ADOPTING REPORT AND  
) RECOMMENDATION IN PART,  
STATE OF NEVADA, et al., ) REJECTING IN PART  
)  
Defendants. )  
)

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1 To succeed in obtaining a preliminary injunction, the  
2 plaintiff must establish: 1) he is likely to succeed on the merits;  
3 2) he is likely to suffer irreparable harm in the absence of  
4 preliminary relief; 3) the balance of equities tips in his favor;  
5 and 4) an injunction is in the public interest. *Winter v. Natural*  
6 *Ress. Def. Council*, 555 U.S. 7, 20 (2008). Under the Ninth Circuit  
7 approach "[s]erious questions going to the merits' and a hardship  
8 balance that tips sharply toward the plaintiff can support issuance  
9 of an injunction, assuming the other two elements of the *Winter*  
10 test are also met." *Alliance for the Wild Rockies v. Cottrell*, 632  
11 F.3d 1127, 1131-32 (9th Cir. 2011). Furthermore, where "a party  
12 seeks mandatory preliminary relief that goes well beyond  
13 maintaining the status quo *pendente lite*, courts should be  
14 extremely cautious about issuing a preliminary injunction." *Martin*  
15 *v. Int'l Olympic Comm.*, 740 F.2d 670, 675 (9th Cir. 1984) (citation  
16 omitted). Finally, the court must consider the additional  
17 requirements set forth in the Prison Litigation Reform Act  
18 ("PLRA"). 18 U.S.C. § 3626. In particular:

19 Preliminary injunctive relief must be narrowly drawn,  
20 extend no further than necessary to correct the harm the  
21 court finds requires preliminary relief, and be the least  
22 intrusive means necessary to correct the harm. The court  
23 shall give substantial weight to any adverse impact on  
public safety or the operation of a criminal justice  
system caused by the preliminary relief and shall respect  
the principles of comity set out in paragraph (1)(B) in  
tailoring any preliminary relief.

24 § 3626(a)(2). Therefore, section 3626(a)(2) limits the power of  
25 the court to grant preliminary injunctive relief to inmates. See  
26 *Gilmore v. People of State of Cal.*, 220 F.3d 987, 998 (9th Cir.  
27 2000).

28 With these standards in mind, the court has considered the

